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Total Number of Pages in This Submission

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Application Number

09/690,212

Filing Date

October 12, 2000

First Named Inventor

Mamdani, Malik et al.

Art Unit

3621

Examiner Name

Kambiz Abdi

Attorney Docket Number

033327.0021

ENCLOSURES (Check all that apply)

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Thomas F. Bergert
Williams Mullen, P.C.

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Thomas F. Bergert

Date

October 20, 2004

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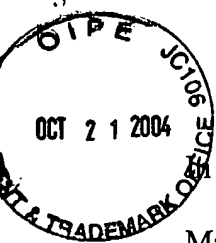
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Application of

Mamdani, Malik et al.

Serial No.: 09/690,212

Filed: October 17, 2000

For: Method and System for
Facilitation of Wireless E-Commerce
Transactions

Examiner: Kambiz Abdi

Art Unit: 3621

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STATEMENT OF SUMMARY OF INTERVIEW

This is a statement of the summary of the interview of August 25, 2004 between Applicant's counsel, Examiner Abdi (the Examiner) and Examiner Hayes. The Examiner's interview summary was mailed September 20, 2004, and thus Applicant submits that the present statement is being timely submitted. Applicant notes that the interview was in-person, and not telephonic as noted on page one of the Examiner's interview summary.

A Notice of Allowance was issued in the present application on December 17, 2003, and the issue fee was timely paid on March 16, 2004. A Notice of Withdrawal from Issue was subsequently mailed on July 27, 2004. Applicant's counsel and Examiner Abdi (the Examiner) subsequently agreed to discuss the Examiner's belief that U.S. Patent Application Publication No.

2002/0195495 A1 to Melick et al. (hereinafter "Melick") rendered the present claims unpatentable, thereby resulting in the issuance of the Notice of Withdrawal from Issue.

During the interview, the Examiner presented the position that the invention as claimed would be obvious to one of ordinary skill in the art in light of the Melick reference. However, Applicant submits that the Examiner did not specifically outline which elements of any of the independent claims the Examiner believed were clearly shown by Melick, which elements the Examiner believed were obvious in view of Melick, or which elements the Examiner believed were obvious in view of Melick and any other reference of record. Applicant respectfully submits that the Examiner's statement in the interview summary that "Melick by itself is sufficiently clear on teaching what is claimed in the independent claims as they are currently presented in the application" is not true, and at the least, has not been specifically presented by the Examiner to Applicant or Applicant's counsel. Thus, Applicant submits that the Examiner has not presented a prima facie case of obviousness as required under MPEP 2141-2143. As such, Applicant submits that it is under no duty to submit evidence of nonobviousness. See MPEP 2142.

Applicant's counsel did specifically note during the interview that the Melick reference may only be used to support a rejection to the extent supporting subject matter is present in the first two provisional applications relied upon by Melick for priority (i.e., U.S. 60/174,220 filed Jan. 3, 2000 (the '220 application) and U.S. 60/213,843 filed June 23, 2000 (the '843 application)), as these are the only applications with a priority date which predates Applicant's priority filing date of July 13, 2000. Applicant submits that any elements in the Melick

publication which were not in the '220 and '843 application cannot be read into the '220 and '843 disclosures. The Examiner acknowledged this during the interview.

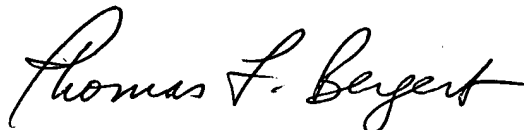
Applicant submits that the Examiner's statement on page 3 of the Interview Summary that "Examiner reiterated the merits of the Melick reference as prior art that would qualify to reject the independent claims as they are presently submitted in the application" is inaccurate. Applicant submits that the Examiner never specifically outlined how the Examiner believed the Melick reference applied to each element of any of the present independent claims of the present application. To the extent the Examiner pointed out elements of the Melick reference believed to disclose or suggest individual elements of the present claims, the Examiner did not properly find consistent support in either the '220 application or the '843 application.

Applicant's counsel respectfully disagrees with the Examiner's statements on page 3 of the Interview Summary regarding the presentment of proposed amendments. Applicant's counsel clearly indicated Applicant's belief that the present claims are still allowable in their present form even in view of Melick, and Applicant's counsel and the Examiner acknowledged the Examiner's burden of proving prima facie obviousness. Applicant's counsel further pointed out Applicant's belief that the Examiner's statements in the Notice of Allowance mailed December 17, 2003 still remain true even in view of Melick. While Applicant's counsel indicated during the interview that, if the Examiner were to sufficiently prove prima facie obviousness, Applicant would consider adding additional language to the independent claims of the present application to more particularly point out the non-obviousness of the present invention, any discussion of potential amendments during the interview was purely hypothetical and not a central element of the interview.

Applicant awaits the Examiner's presentment of the reasons why the present claims are unpatentable as claimed in the Notice of Withdrawal.

Respectfully submitted,

WILLIAMS MULLEN, PC



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Filed: October 20, 2004

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